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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,876	10/11/2004	Hollis B. Sherburne	1107.03001	5875
24254	7590	07/27/2005	EXAMINER	
ROGER A JACKSON, ESQ 800 PENNSYLVANIA SUITE 1504 DENVER, CO 80203-3185			SCRUGGS, ROBERT J	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/711,876

Applicant(s)

SHERBURNE, HOLLIS B.

Examiner

Robert Scruggs

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 13-18 and 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13-18, 21, and 23 -25 are rejected under 35 U.S.C. 102(b) as being anticipated by Walz (1792338). Walz, discloses an adjustable wrench comprising:

a. A handle member (Figure 1, 2), having a longitudinal axis between a handle first end portion (1) including a fixed jaw segment (3), a fixed jaw surface plane, a transverse axis to said fixed jaw, a channel (5) therethrough positioned substantially parallel to said transverse axis, a handle second end portion formed on the opposing end of the handle first end portion, a handle central portion formed by as the area between the first two handle end portions (Figure 1) including a void (19) in communication with said channel, where said void having a longitudinal axis (Figure 1).

b. A movable jaw member (9), including a movable jaw segment, a movable jaw surface plane, an engagement portion (17) which is slidably engaged within said channel being operational to move said movable jaw member from an open state to a closed state and from the closed state to the open state, a serrated toothed rack (15) whose pitch line forms an acute angle in relation to said movable jaw surface plane (Column 3, Lines 28-34).

c. A beam (20), engaged for reciprocating movement within said void, having a longitudinal axis, an end portion capable of projecting into said channel, said end portion having a serrated toothed rack (21) that selectively matably engages with said movable jaw member serrated toothed rack. The function of the beam is to secure said movable jaw member at a selected position between the closed state and the open state when said beam serrated toothed rack matably engages with said movable jaw member serrated toothed rack. A spring (24), used for urging said beam serrated toothed rack to matably engage with said movable jaw member serrated toothed rack, and another spring (18) assists in urging said movable jaw member to a selected position moving from the open state to the closed state resulting in said movable jaw member in a secured position upon which a fastener can be tightened or loosened.

d. An equivalent beam extension lever structure (27), formed as the bottom end of said trigger (Figure 1) performs substantially the same means for performing the same function of the applicants disclosed device. Where the beam extension lever structure, is projected through the handle central portion first aperture (26), wherein said first aperture is located in said handle central portion, is in communication with said void, positioned substantially parallel lengthwise to the longitudinal axis, and can be used for manually disengaging said beam serrated toothed rack from said movable jaw member serrated toothed rack by using manual reciprocated finger manipulation of a user causing said beam within said void to compress said spring (24), which in turn allows free slidable engagement of said movable jaw member within said channel from the open state to the closed state and from closed state to the open state. An aperture,

located in the handle second end portion (Figure 1), which can be used to suspend said handle member from a support member through the use of a suspension element.

3. A method of using an adjustable wrench for loosening or tightening a fastener, comprising the steps of:

- a. Providing an adjustable wrench assembly,
- b. Grasping said handle member,
- c. Moving and holding said means for manually selectively disengaging said beam serrated toothed rack from said movable jaw member serrated toothed rack,
- d. Moving said trigger,
- e. Positioning said fixed jaw segment and said movable jaw member on the fastener,
- f. Releasing said means for manually disengaging said beam serrated toothed rack from said movable jaw member serrated toothed rack,
- g. Applying manual force to said handle,
- h. Steps a-g, are sequentially repeated in order to provide for a ratcheting action of said adjustable wrench to loosen or tighten the fastener.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 22, is rejected under 35 U.S.C. 103(a) as being unpatentable over Walz in view of Wang (6799493). Walz, discloses an adjustable wrench previously mentioned, but lacks the particular fastener size indicia visibly disposed on each of said fixed jaw segments and said movable jaw member to identify relative jaw position corresponding to a fastener size. However, Wang discloses an index (29) provided on the surface at the lower edge of the movable jaw, and an index mark (151) to indicate the size of the clamping space by the relation between the index and the index mark. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the adjustable wrench disclosed by Walz, with a fastener size indicia used in view of Wang, in order to identify the relative jaw position corresponding to a fastener size.

Allowable Subject Matter

6. Claims 1-12, 19 and 20 are allowed.

7. The following is an examiner's statement of reasons for allowance: The present invention pertains to an adjustable wrench. It is the examiner's opinion that the art of record considered as a whole, alone or in combination, neither anticipates nor renders obvious a trigger member pivotally attached to a movable jaw and which is slidably engaged to the handle member.

8. Prior art; Walz (1792338), and Wang (6799493), collectively disclose an adjustable wrench comprising:

- i. A handle member, having a longitudinal axis between a handle first end portion including a fixed jaw segment, a fixed jaw surface plane, a transverse

axis to said fixed jaw, a channel therethrough positioned substantially parallel to said transverse axis, a handle second end portion, a handle central portion including a void in communication with said channel, where said void having a longitudinal axis.

j. A movable jaw member, including a movable jaw segment, a movable jaw surface plane, an engagement portion which is slidably engaged within said channel being operational to move said movable jaw member from an open state to a closed state and from the closed state to the open state, a serrated toothed rack whose pitch line forms an acute angle in relation to said movable jaw surface plane.

k. A beam, engaged for reciprocating movement within said void, having a longitudinal axis, an end portion capable of projecting into said channel, said end portion having a serrated toothed rack that selectively matably engages with said movable jaw member serrated toothed rack. The function of the beam is to secure said movable jaw member at a selected position between the closed state and the open state when said beam serrated toothed rack matably engages with said movable jaw member serrated toothed rack. A spring is used for urging said beam serrated toothed rack to matably engage with said movable jaw member serrated toothed rack, and another spring assists in urging said movable jaw member to a selected position moving from the open state to the closed state resulting in said movable jaw member in a secured position upon which a fastener can be tightened or loosened.

- I. An equivalent beam extension lever structure, formed as the bottom end of said trigger performs substantially the same means for performing the same function of the applicants disclosed device. Where the beam extension lever structure, is projected through the handle central portion first aperture, where the first aperture is in communication with said void, positioned substantially parallel lengthwise to the longitudinal axis, and can be used for manually disengaging said beam serrated toothed rack from said movable jaw member serrated toothed rack by using manual reciprocated finger manipulation of a user causing said beam within said void to compress said spring attached to said beam, which in turn allows free slidable engagement of said movable jaw member within said channel from the open state to the closed state and from closed state to the open state. An aperture, located in the handle second end portion, which can be used to suspend said handle member from a support member through the use of a suspension element.
 - m. An index, on the surface at the lower edge of the movable jaw, and an index mark to indicate the size of the clamping space by the relation between the index and the index mark.
9. A method of using an adjustable wrench for loosening or tightening a fastener, comprising the steps of:
 - n. Providing an adjustable wrench assembly,
 - o. Grasping said handle member,

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p. Moving and holding said means for manually selectively disengaging said beam serrated toothed rack from said movable jaw member serrated toothed rack,

q. Moving said trigger,

r. Positioning said fixed jaw segment and said movable jaw member on the fastener,

s. Releasing said means for manually disengaging said beam serrated toothed rack from said movable jaw member serrated toothed rack,

t. Applying manual force to said handle,

u. Steps a-g, are sequentially repeated in order to provide for a ratcheting action of said adjustable wrench to loosen or tighten the fastener.

10. However, the prior art fails to disclose an adjustable wrench comprising a trigger member pivotally attached to a movable jaw, which is slidably engaged to the handle member.

11. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bonkowski (2948175) discloses, a wedge lock means with

slidable slide jaw wrenches. Masbuam (5103697) discloses, discloses a quick adjusting wrench with positive positioning.

13. The information disclosure statement (IDS) submitted on October 11, 2004 is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statement.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Scruggs whose telephone number is 571-272-8682. The examiner can normally be reached on Monday-Friday, 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RS

A handwritten signature in black ink, appearing to read "Joseph J. Hail, III". The signature is fluid and cursive, with a prominent initial "J" and a stylized "H".

Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700